

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION**

LIFE TECHNOLOGIES CORPORATION,

Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION, *et al.*,

Defendants.

Civil Action No. 8:10-cv-03527-RWT

**ACCOMPANYING MEMORANDUM
AND SOME EXHIBITS THERETO
ARE FILED UNDER SEAL**

**PLAINTIFF'S MOTION/APPLICATION FOR DAMAGES (INCLUDING
ATTORNEYS' FEES, COSTS AND EXPENSES) INCURRED AS A RESULT OF DR.
KRISHNAMURTHY'S CONTEMPT OF COURT**

Pursuant to the Court's Order dated September 10, 2014 (ECF No. 151, filed on September 11, 2014) and Local Rule 109.2, Plaintiff Life Technologies Corporation ("Life Technologies" or "Plaintiff") respectfully submits this Motion and Application for Damages (Including Attorneys' Fees, Costs and Expenses) Incurred as a Result of Dr. Krishnamurthy's Contempt of Court. The grounds for this Motion include:

1. In its September 10, 2014 Order (ECF No. 151), this Court granted Plaintiff's Motion to Show Cause Why Dr. Krishnamurthy Should Not be Held in Contempt and Motion for Order Holding Him in Contempt (ECF No. 134). In making that contempt finding, the Court overruled Dr. Krishnamurthy's objections to the Magistrate's Report and Recommendation and ordered Plaintiff to submit "a pleading outlining the monetary damages it has sustained as a result of the contempt of Dr. Krishnamurthy. Plaintiff is to separate out the attorney's fees it has incurred in connection with its Motion to Hold Dr. Krishnamurthy in Contempt [ECF No. 134]

and should also set forth its evidence as to whether Dr. Krishnamurthy willfully disobeyed Judge Connelly's January 9, 2014 order. [ECF No. 122]."

2. Plaintiff's attorneys' fees are reasonable and were necessary to the prosecution of this phase of the litigation. Dr. Krishnamurthy refused to produce any e-mails or provide access to his numerous e-mail accounts voluntarily, and Plaintiff was forced to seek those e-mails through formal consent forms as required by the Stored Wire Electronic Communications Act for the release of a subscriber's e-mails. *See* 18 U.S.C. §2701 *et seq.* When Dr. Krishnamurthy refused to voluntarily sign such consent forms, the Magistrate ordered him to sign them. *See* ECF No. 122 (January 9, 2014 Order). Dr. Krishnamurthy refused to obey the January 9, 2014 Order, and Plaintiff filed its Motion for Contempt. *See* ECF No. 134. Without the Motion for Contempt and Plaintiff's other efforts, Dr. Krishnamurthy would have continued to refuse to allow access to his e-mails and Plaintiff would have been denied access to them.

3. There was no reason, rationale or justification for Dr. Krishnamurthy's refusal to obey the Magistrate's January 9 Order. His conduct in disobeying that order was willful and rose to the level of obstinance or recalcitrance.

4. Accordingly, Plaintiff seeks its attorneys' fees, costs and expenses as set out in the accompanying Memorandum and attached declarations and exhibits. The requested actual attorneys' fees are \$144,950, and the actual costs and expenses are \$7,146.26, for a total of \$152,096.26.

5. This Motion is supported by: (1) the grounds set out above, (2) the Memorandum in Support of this Motion, (3) the Declarations of Matthew D. Murphey, Louis E. Grenzer, Adam Tschop, and Roy Craig (and supporting Exhibits), all of which are filed herewith, any other matters as to which the Court may or must take judicial notice, and upon such other matters as may be presented at the hearing, if any.

WHEREFORE, it is respectfully requested that the Court grant Plaintiff's Motion and Application for Damages (Including Attorneys' Fees) Incurred as a Result of Dr. Krishnamurthy's Contempt of Court, and any other relief requested in this Motion.

Dated: October 9, 2014

/s/ Eric M. Jaegers

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2014, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court and served using the CM/ECF system on all counsel of record who have consented to such service. Because the foregoing was filed under seal, an electronic copy of the foregoing was served on counsel for Defendant and Dr. Krishnamurthy (Mr. Andrew Aitken) via e-mail at acaitken@aitkenlawoffices.com. Further, because Mrs. Jayasree Krishnamurthy has not retained counsel and has not provided an e-mail address to Plaintiff's counsel, the undersigned also certifies that on October 9, 2014 it served this document and all of its accompanying papers on Mrs. Krishnamurthy via regular U.S. Mail at 10135 Treble Court, Rockville, MD 20850.

/s/ Eric M. Jaegers

Eric M. Jaegers